REMARKS/ARGUMENTS

Claims 3-4 are pending in the present application. Both of the subject claims are rejected.

Claim 1 has been amended in response to the issue raised by the Examiner throughout the present Office Action, i.e., that the instant claims are drawn to a method of preparing a drug, not to a method of treatment. As now amended, therefore, the claims do recite a method of treatment wherein the method comprises administration of the drug that was the subject of the original claims. The claim amendment is entirely supported by the application as filed and therefore it raises no question of new matter. Entry of the amended claim is therefore respectfully solicited.

Reconsideration of the rejection is respectfully requested based on the claim amendments and remarks presented herein.

Rejection Under 35 U.S.C. §103

The Examiner continues to maintain the rejection of claims 3 and 5 under 35 U.S.C. §103(a) over Smith (*Veterinary Immunology and Immunopathology*, 78, 2001, pp. 249-262) and Neely (WO 99/38532) in view of Jameson et al. (USP 5,589,458) and Steinman (*Annu. Reb Neurosco.*, Vol. 25, 2002, pp. 491-505). The Examiner states, in regard to applicants' prior arguments against the subject rejection, that the instant claims are drawn to preparing a drug, not to a method of treatment and therefore the intended use of the drug is not given any weight in regard to patentability. Applicants respectfully traverse this ground of rejection..

The cited prior art is discussed in detail in applicants' previous response dated November 16, 2010, as are the features which are believed to distinguish applicants' claimed method over what is suggested by the disclosure of the references taken in combination. Those remarks are, moreover, incorporated by reference into the present response as well. They are believed to be even more appropriate now that, as indicated above, claim 1 has been amended such that it now recites a method of treatment, rather than a method of making a drug, such that the Examiner is now requested to take into consideration the intended use of the drug, i.e., in treating the neurodegenerative phase of multiple sclerosis.

In applicants' arguments as set forth in the prior response filed in this application, it was stated that whereas one skilled in this field may have been motivated to include a P2X7 purinergic receptor antagonist in a drug if the drug were to be used to treat the inflammatory phase of a disease such as MS, there is no suggestion provided in the art to utilize such an

antagonist if the drug were, instead, used in the treatment of the neurodegenerative phase of multiple sclerosis as now recited in amended claim 1. Put another way, the prior art teaches the use of the subject antagonists for the treatment of autoimmune inflammatory action produced during the inflammatory stage of the disease, however the references contain no teaching or suggestion to utilize such antagonists against toxicity induced by ATP during the neurodegenerative phase of MS. Thus there is no teaching or suggestion to use a drug containing such material in treating the neurodegenerative phase of the disease.

The use of the claimed antagonist(s) of protecting against such toxicity, i.e., during the neurodegenerative phase, was not known in the art at the time the present method was invented, and is not suggested by combining the references cited to reject the claims. Applicants submit, that, firstly, it was not known at the time the presently claimed method was developed that oligodendrocytes had P2X7 receptors on their surface, nor was it known that the blocking of the channels increased the survival of the oligodendrocytes in the neurodegenerative phase of MS. The lack of recognition of the beneficial effects – first discovered by the present applicants – of the P2X7 purinergic receptor antagonists on the neurodegenerative phase of multiple sclerosis leads, in applicants' view, to the conclusion that the presently claimed method, wherein such P2X7 antagonists are incorporated in a drug used in treating the neurodegenerative phase, is neither taught or even suggested by combining the disclosure of all of the cited references.

Applicants respectfully submit, therefore, that he presently claimed method of treatment, therefore, now recited in applicants' amended claims 3 and 4, would not – for all of the reasons presented above – be obvious to one having at least an ordinary level of skill in this art considering the combined disclosure of the references relied upon in the present Office Action. The Examiner is, therefore, respectfully requested to reconsider and withdraw the claim rejection(s).

THIS CORRESPONDENCE IS BEING SUBMITTED ELECTRONICALLY THROUGH THE PATENT AND TRADEMARK OFFICE EFS FILING SYSTEM ON May 31, 2011.

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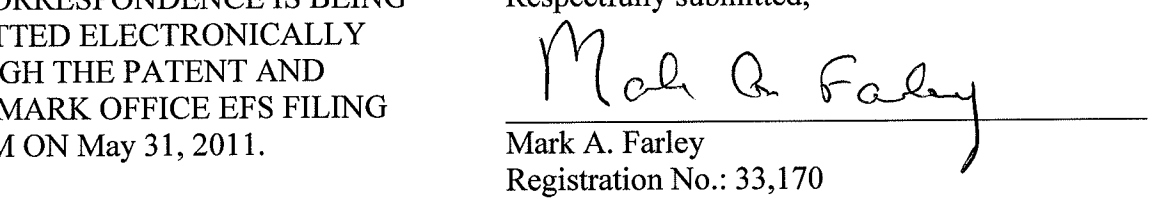
Respectfully submitted,



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